

Wayland, Joshua

From: Ryan Beam <RBeam@biologicaldiversity.org>
Sent: Monday, July 29, 2019 7:19 PM
To: Wayland, Joshua
Cc: Gosselin, Danielle; Rutson, Vicki
Subject: CBD UBR Scoping Comment Period Extension Request
Attachments: UBR Scoping Comment Extension Request July 29 2019.pdf; 2019.05.29 Records Request to SCIC RE Seven County Infrastructure Coalition Records.pdf; 2019.05.29 Records Request to SCIC RE Seven County Infrastructure Coalition Communications.pdf; Johnson Email July 22 2019.pdf

Dear Mr. Wayland,

Please see the attached request that the Surface Transportation Board's Office of Environmental Analysis extend the public scoping comment period for the preparation of an Environmental Impact Study in response to the Seven County Infrastructure Coalition request to the Surface Transportation Board (STB Docket No. FD 36284).

Please acknowledge your receipt of this request and thank you very much for your consideration,
Ryan

Ryan Beam, *Public Lands Campaigner*
CENTER for BIOLOGICAL DIVERSITY
Pronouns: he/him/his
Salt Lake City, UT
cell (928) 853-9929



July 29, 2019

Joshua Wayland
Surface Transportation Board
Office of Environmental Assessment
c/o 9300 Lee Highway
Fairfax, VA 22031

Submitted via email to Joshua.Wayland@stb.gov, Danielle.Gosselin@stb.gov, Vicki.Rutson@stb.gov

Re: Request for Extension of Scoping Comment Period by at Least 45 Days on Surface Transportation Board's Seven County Infrastructure Coalition-Rail Construction & Operation-in Utah, Carbon, Duchesne, and Uintah Counties, Utah, Docket No. FD 36284

Dear Mr. Wayland,

On behalf of our members and supporters, we request that you extend the public scoping comment period pertaining to the preparation of an Environmental Impact Study (EIS) in response to the Seven County Infrastructure Coalition (SCIC) request to the Surface Transportation Board (STB Docket No. FD 36284) by at least 45 days. Because of the lack of publicly available information and the scale of potential consequences of the Uinta Basin Railway — the project proposed by the SCIC — the current 45-day scoping period is inadequate.

The Uinta Basin Railway would have sweeping environmental consequences for public lands, air quality, public health, climate, and water and is a matter of significant public interest. Besides being the largest new U.S. rail construction project in several decades if it were built, the primary purpose of the railway would be to expand industrial activities — namely, but not limited to, crude oil production — in the Uinta Basin. The railway would stand to unleash a flood of new oil trains into the national rail network, destined for potentially numerous distant locations. The potential direct, indirect, and cumulative effects of this project, including three different alternative routes spanning a total of 370 miles, are broad, complex, and geographically expansive, and therefore require additional time to understand and estimate.

Furthermore, the public is still struggling to understand the true picture of the project given the dearth of publicly available information and the conflicting nature of much of the information that has been released. The truth of the project's purpose, its construction, its feasibility, and its consequences remain unclear. For the few who have had the luxury of being able to investigate the proposal and track its progress, it is evident that the conception of the proposed project has changed multiple times in the last year and continues to shift seemingly constantly. Despite being driven by public funds, this evolution has occurred largely behind closed doors, with little to no public input, and very little coverage in the media for a project its size. Additionally, the unique nature of this proposal in the Uinta Basin requires more time for the public to better understand the specific considerations and consequences involved with the construction of new railroads.

Our organization, among others, currently has outstanding state public records requests¹ that have been submitted to the SCIC in an attempt to gain a better understanding of project details, cost estimates,

¹ Center for Biological Diversity letter to SCIC, Re: Utah Government Records Access and Management Act Request: Seven County Infrastructure Coalition Records, May 29, 2019; Center for Biological Diversity letter to SCIC, Re: Utah Government Records Access and Management Act Request: Seven County Infrastructure Coalition Communications, May 29, 2019.



financials, and other information important to our ability to effectively prepare scoping comments. Despite the SCIC's best efforts, of these two requests, which were both submitted on May 29, 2019, even before the STB's notice of intent to prepare an EIS was published on June 19, one has been only partially fulfilled and the second has yet to produce any responsive records whatsoever, though receipt of the request was acknowledged on the day it was submitted. The portion of the first request that has not been fulfilled seeks documents that, according to the SCIC should have been posted to their website. However, according to an employee of the SCIC, "Our practice of posting all materials provided to our Board, including financials, appears to be current through March 2019. However, it also appears that since March, those materials are not posted on our website. Because it appears we are a bit behind."²

In its public scoping process for the Great Lakes Basin Railroad — an appreciably similar proposal to the Uinta Basin Railway in many ways — the STB's Office of Environmental Analysis (OEA) initially set a 60-day comment (from March 18 to May 16, 2016) and later extended it by 30 days (to June 15, 2016) for a total of 90 days.³ The public should be afforded at least as much time to understand and comment on the proposed Uinta Basin Railway.

The length of the comment period and the pace of the project should be dictated by the firmness of the project and by public awareness and understanding and not by any perceived need to rush the project forward; especially not based on political timelines as the project proponents have expressed.

For these reasons, we request that the OEA extend the public comment period for scoping on the Uinta Basin Railway EIS by at least 45 days to September 19, 2019.

Thank you for your consideration of this request, and we hope you will allow a fair and adequate opportunity for public comment and participation in this important decision.

Respectfully submitted,

Ryan Beam
Public Lands Campaigner
Center for Biological Diversity
331 S 1000 E, Apt. 4
Salt Lake City, UT 84102
(928)853-9929
rbeam@biologicaldiversity.org

² Email correspondence between Eric Johnson, Legal Services, Seven County Infrastructure Coalition, and Ryan Beam, Center for Biological Diversity, dated July 22, 2019.

³ Office of Environmental Analysis, Surface Transportation Board, "Public Comment Deadline Extended to July 15 for Surface Transportation Board's Public Scoping of Great Lakes Basin Rail Project" (2016). Available at: <https://tomdemmer.org/2016/06/13/public-comment-deadline-extended-to-july-15-for-surface-transportation-boards-public-scoping-of-great-lakes-basin-rail-project/>



May 29, 2019

VIA ELECTRONIC MAIL

Eric Johnson, Treasurer
Seven County Infrastructure Coalition
c/o Blaisdell, Church & Johnson, LLC
5995 S. Redwood Road
Salt Lake City, UT 84123
eric@bcjlaw.net

Re: Utah Government Records Access and Management Act Request: Seven County Infrastructure Coalition Records

Dear Mr. Johnson:

Per our conversation yesterday morning, this is a request under the Utah Government Records Access and Management Act, Utah Government Code sections 63G § 2 (“GRAMA”), from the Center for Biological Diversity (“Center”), a national, nonprofit conservation organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process.

REQUESTED RECORDS

The Center requests the following records from the Seven County Infrastructure Coalition (“SCIC”):

1. The report produced by R.L. Banks & Associates, Inc. (“RL Banks”), as referenced in the August 2018 SCIC Pre-Meeting Packet;¹
2. The October 17, 2018 letter from the Utah Attorney General’s Office, as referenced in the November 2018 Community Impact Fund Board (“CIB”) Meeting Minutes;²

¹ “Seven County Infrastructure Coalition Agenda, August 10, 2018,”

<https://web.archive.org/web/20180928204151/http://scic-utah.org/wp-content/uploads/Pre-Meeting-Packet-2018-08-10.pdf> (last visited May 29, 2019).

² “Permanent Community Impact Fund Board Meeting Minutes, November 8, 2018”

<https://jobs.utah.gov/housing/community/cib/documents/110818cibminutes.pdf> (last visited May 29, 2019).

3. The “Zions Public Finance review of the Pre-Feasibility Study.”³

Between January 1, 2017 and the date SCIC conducts this search:

1. All other studies produced for the SCIC by RL Banks;
2. All analyses conducted by HDR on train traffic and demand. Results from such analyses are referenced in the March 19, 2019 Email from Mark Hemphill to Joshua Wayland, Elizabeth Diller, Chris Moelter, *et al.*;⁴
3. All additional studies produced by HDR for SCIC;
4. All records containing information about terminal footprints, as referenced in the March 28, 2019 Email from Brian Barton to Michael Hawle, *et al.*;⁵
5. All agreements between the SCIC and the following individuals:
 - a. Drexel Hamilton Infrastructure Partners LP; and/or
 - b. Rio Grande Pacific Corp.;
6. All contracts between the SCIC and the following:
 - a. CIB;
 - b. HDR;
 - c. Jones and DeMille, Engineering, Inc.;
 - d. RL Banks;
 - e. ICF International, as discussed at the May 10, 2019 SCIC meeting;
7. All communications mentioning an October 17, 2018 letter from the Utah Attorney General’s Office;⁶ and
8. All records of “Profit & Loss” or “Profit & Loss by Class,” and other SCIC financial records such as those contained in the November 9, 2019 SCIC Financials.⁷

³ *Id.*

⁴ March 19, 2019 Email from Mark Hemphill to Joshua Wayland, Elizabeth Diller, Chris Moelter, *et al.*,
[https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/768EDEABAABFD77A852583E7004D2810/\\$File/EI-26458.pdf?OpenElement](https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/768EDEABAABFD77A852583E7004D2810/$File/EI-26458.pdf?OpenElement) (last visited May 29, 2019).

⁵ March 28, 2019 Email from Brian Barton to Michael Hawle, *et al.*,
[https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/DC540F819BEBD1DC852583E7004DB0E7/\\$File/EI-26460.pdf?OpenElement](https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/DC540F819BEBD1DC852583E7004DB0E7/$File/EI-26460.pdf?OpenElement) (last visited May 29, 2019).

⁶ *See supra* note 2.

⁷ November 9, 2019 SCIC Financials,
<https://drive.google.com/file/d/1cQ8s8VrwV3liUbgRzKwg5IZkrA9GHY1B/view> (last visited May 29, 2019).

For this request, the term “records” refers to, but is not limited to, documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the state and/or federal government), emails, letters, notes, recordings, telephone records, voicemails, telephone notes, telephone logs, text messages, chat messages, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, papers published and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, the Center asks that SCIC indicate this fact and the reasons therefore in your response.

The Center is willing to receive records on a rolling basis.

FORMAT OF REQUESTED RECORDS

Please provide all records in a readily-accessible, electronic .pdf format. “Readily-accessible” means text-searchable and OCR-formatted. We hereby request that you produce all records in an electronic format and in their native file formats. Additionally, please provide the records in a load-ready format with a CSV file index or Excel spreadsheet. If you produce files in .PDF format, then please omit any “portfolios” or “embedded files.” Portfolios and embedded files within files are not readily accessible. Please do not provide the records in a single, or “batched,” .PDF file. We appreciate the inclusion of an index.

If SCIC determines that the requested records are subject to a still-valid exemption, we would further request that: (1) SCIC exercise discretion to disclose some or all of the records notwithstanding the exemption; and (2) with respect to records containing both exempt and nonexempt content; that SCIC redact the exempt content and disclose the rest.

RECORD DELIVERY

We appreciate your help in expeditiously obtaining a determination on the requested records. As mandated under GRAMA, we anticipate a determination within 5 days. Utah Gov. Code 63G § 2-204(3)(6). Please provide a complete reply as expeditiously as possible. You may email or mail copies of the requested records to:

Ann K. Brown
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211
foia@biologicaldiversity.org

If you find that this request is unclear, or if the responsive records are voluminous, please contact me to discuss the scope of this request.

REQUEST FOR FEE WAIVER

The Center requests a waiver of all fees because the disclosure of the requested information is in the public interest and will contribute significantly to public understanding of SCIC's activities as they relate to the Uinta Basin Railway. In particular, this information will be used by the Center staff to create public awareness about SCIC's operations and projects, which are largely obscured from the public domain.

I. The Center Qualifies for A Fee Waiver.

While we are not requesting photo copies at this time, the Center respectfully requests a waiver for any fees associated with this matter. The Center is a non-profit conservation organization dedicated to protecting the environment and educating the public about environmental resources and threats to those resources. The Center has members throughout Utah. Once the records are made available, the Center will analyze and use them in a manner that will meaningfully enhance the public's understanding of the environmental impact of the Uinta Basin Railway. Through the Center's synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. We believe that a fee waiver is consistent with the letter and spirit of SCIC.

II. The Center has a Demonstrated Ability To Disseminate The Requested Information Broadly.

The Center will use the requested records for outreach and education, including media, as well as potential litigation or other legal efforts. The Center is a non-profit organization that informs, educates, and counsels the public regarding environmental issues, policies, and laws relating to environmental issues. The Center has been substantially involved in the activities of numerous government agencies for over 25 years, and has consistently displayed its ability to disseminate information granted to it through public records requests.

In consistently granting the Center's fee-waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public's understanding of the government's operations or activities; (2) that the information enhances the public's understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center's track record of active participation in oversight of governmental activities and decision making, and its consistent contribution to the public's understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center intends to use the records requested here similarly. The Center's work appears in nearly 5,000 news stories online and in print, radio and TV per month, including regular reporting in such important outlets as *The New York Times*, *Washington Post*, *The Guardian*, and *Los Angeles Times*. Many media outlets have reported on government projects that may impact public lands. In 2018, more than 2.5 million people visited the Center's extensive website, and

viewed pages a total of 4.3 million times. The Center sends out more than 277 email newsletters and action alerts per year to more than over 1.4 million members and supporters. Three times a year, the Center sends printed newsletters to more than 69,500 members. More than 420,000 people have “liked” the Center on Facebook, and there are regular postings regarding environmental protection. The Center also regularly tweets to more than 71,200 followers on Twitter. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

The Center respectfully requests SCIC that access to these records should be immediate and without charges.

III. Conclusion

The Utah GRAMA requires a response to this request be made within five (5) days. Utah Gov. Code 63G § 2-204(3)(6). We hope that SCIC will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays. If access to the records will take longer than ten days, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you have any questions, please contact me at foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below.

Sincerely,



Ann K. Brown
Open Government Coordinator
CENTER FOR BIOLOGICAL DIVERSITY
P.O. Box 11374
Portland, OR 97211-0374
foia@biologicaldiversity.org



May 29, 2019

VIA ELECTRONIC MAIL

Eric Johnson, Treasurer
Seven County Infrastructure Coalition
c/o Blaisdell, Church & Johnson, LLC
5995 S. Redwood Road
Salt Lake City, UT 84123
eric@bcjlaw.net

Re: Utah Government Records Access and Management Act Request: Seven County Infrastructure Coalition Communications

Dear Mr. Johnson:

Per our conversation yesterday morning, this is a request under the Utah Government Records Access and Management Act, Utah Government Code sections 63G § 2 (“GRAMA”), from the Center for Biological Diversity (“Center”), a national, nonprofit conservation organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process.

REQUESTED RECORDS

The Center requests the following records from the Seven County Infrastructure Coalition (“SCIC”):

From January 1, 2018 to the date SCIC conducts this search all records of communications:

1. Between SCIC and the Utah Department of Transportation; and/or
2. Between SCIC and the TYR Energy, as alluded to in Attachment A (March 8, 2019 SCIC Meeting Minutes).
3. Containing the phrases “Transportation Infrastructure Finance and Innovation Act” and/or “TIFIA.”

For this request, the term “records” refers to, but is not limited to, documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the state and/or federal government), emails, letters, notes, recordings, telephone records, voicemails, telephone notes, telephone logs, text messages, chat messages, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, papers published and/or unpublished,

reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, the Center asks that SCIC indicate this fact and the reasons therefore in your response.

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RECORD DELIVERY

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REQUEST FOR FEE WAIVER

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be used by the Center staff to create public awareness about SCIC's operations and projects, which are largely obscured from the public domain.

I. The Center Qualifies for A Fee Waiver.

While we are not requesting photo copies at this time, the Center respectfully requests a waiver for any fees associated with this matter. The Center is a non-profit conservation organization dedicated to protecting the environment and educating the public about environmental resources and threats to those resources. The Center has members throughout Utah. Once the records are made available, the Center will analyze and use them in a manner that will meaningfully enhance the public's understanding of the environmental impact of the Uinta Basin Railway. Through the Center's synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. We believe that a fee waiver is consistent with the letter and spirit of SCIC.

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In consistently granting the Center's fee-waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public's understanding of the government's operations or activities; (2) that the information enhances the public's understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center's track record of active participation in oversight of governmental activities and decision making, and its consistent contribution to the public's understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center intends to use the records requested here similarly. The Center's work appears in nearly 5,000 news stories online and in print, radio and TV per month, including regular reporting in such important outlets as *The New York Times*, *Washington Post*, *The Guardian*, and *Los Angeles Times*. Many media outlets have reported on government projects that may impact public lands. In 2018, more than 2.5 million people visited the Center's extensive website, and viewed pages a total of 4.3 million times. The Center sends out more than 277 email newsletters and action alerts per year to more than over 1.4 million members and supporters. Three times a year, the Center sends printed newsletters to more than 69,500 members. More than 420,000 people have "liked" the Center on Facebook, and there are regular postings regarding

environmental protection. The Center also regularly tweets to more than 71,200 followers on Twitter. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

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If you have any questions, please contact me at foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below.

Sincerely,



Ann K. Brown
Open Government Coordinator
CENTER FOR BIOLOGICAL DIVERSITY
P.O. Box 11374
Portland, OR 97211-0374
foia@biologicaldiversity.org

Attachment

Attachment A (March 8, 2019 SCIC Meeting Minutes)

Attachment A

SEVEN COUNTY INFRASTRUCTURE COALITION
REVISED AGENDA
SPECIAL MEETING

March 8, 2019 at 10:00 a.m.

1385 S. State Street, First Floor, Salt Lake City, Utah
(435) 636-3214

- | | |
|---|--------------------------|
| 1. Welcome/Pledge | Brad Horrocks |
| 2. Minutes | Brad Horrocks |
| 3. Public Comment (limit 3 minutes) | Brad Horrocks |
| 4. Executive Director Report | Mike McKee |
| A. Rail | |
| B. Molten Salt Research Lab | |
| C. Leland Bench Utilities | |
| D. Pipelines (oil and natural gas) | |
| E. Board Retreat Date | |
| F. Other | |
| 5. Infrastructure update | Jones & DeMille |
| 6. Board Project Assignments | Mike McKee/Brad Horrocks |
| 7. Finance Director Report and approval of expenses | Smuin Rich & Marsing |
| 8. Resolution Selecting Finance Director | Mike McKee |
| 9. Public Private Partnerships/TYR Energy | M. McKee/Michael Walters |
| 10. Resolution considering Asset Transfer | M. McKee |
| 11. Closed (executive) session pursuant to §52-4-205
(potential real estate acquisition, trade secret related to procurement, personnel
competency) | Eric Johnson |
| 12. Motion to adjourn | Brad Horrocks |

*In accordance with the Americans with Disabilities Act, the Coalition will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting Carbon County Administrative Offices at (435) 636-3214 at least 48 hours in advance of the meeting to be held.

*The order of agenda items may change to accommodate the needs of the Coalition Board, the staff, and the public.

*This meeting may be held electronically via telephone to permit one or more of the Coalition Board members to participate